

SENATE BILL 1091  
By Cooper

AN ACT to amend Tennessee Code Annotated, Title 36,  
Chapter 5 and Title 56, relative to insurance  
coverage of spouses and former spouses.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 7, is amended by adding  
the following language as a new appropriately designated section:

56-7-2365.

(a) Every group policy of accident and sickness insurance offered for sale in this state, which provides coverage for hospital or medical expenses that, in addition to covering the insured, also provides coverage to the spouse of the insured, shall contain a provision to the effect that, upon the death of the insured or the entry of a valid decree of divorce between the insured parties, the surviving or divorced spouse and any dependent children shall be entitled to have continued coverage under the employer's group policy without evidence of insurability, upon application made to the company within ninety-one (91) days following the entry of such decree, and upon the payment of the appropriate premium. Any and all probationary or waiting periods set forth in such continuation coverage shall be considered as being met to the extent coverage was in force under the prior policy. This provision shall apply to any policy that covers residents of the state, issued or renewed within or without the state.

(b) This section shall also apply to group health policies covering medical and hospital expenses and to group policies issued by a fraternal benefit society,

a hospital service nonprofit corporation, a health care corporation, a health maintenance organization, or any other similar entity.

(c) Each certificate of insurance issued under a group health policy covered by this section shall set forth the continuation right provided. The provision shall clearly set forth a full description of the continuation right available, including all requirements, limitations, exceptions, the premium required or a brief statement concerning the method of calculation thereof, and the time of payment of all premiums due during the period of continuation.

(d) Benefits paid on behalf of a person covered pursuant to the provisions of this section shall be paid in accordance with any assignment by the divorced or widowed spouse.

(e) In the event of the remarriage of the insured employee, the former spouse shall have the right to continue to receive benefits as required in this section.

(f) The monthly premium charged for the continuation shall not be greater than one hundred percent (100%) of the total of the amount that would be charged if the divorced or surviving spouse were insured by the group health policy as an employee member, and in the event of any dependent children as covered under the continuation authorized by this section, one hundred percent (100%) of the total amount that would be charged for the spouse and dependent coverage under the group plan, including any amount that the group policyholder would contribute toward the premium if the divorced or surviving spouse were a current member. In addition to the monthly premium an administrative fee of up to two percent (2%) of the premium may be charged each month.

(g) The right to coverage shall terminate upon the earliest of any of the following:

(1) The failure to pay premiums or required premium contributions when due, if applicable, including any grace period allowed by the policy; notice of cancellation of coverage of the divorced or separated spouse of a member shall be mailed to such person at their last known address, together with notice of the right to reinstate coverage retroactively to the date of cancellation as provided by the policy; or

(2) The date that the group plan is terminated as to all group members, except that if a different group plan is made available to group members, the eligible group member or the divorced or surviving spouse shall be eligible for continuation of coverage under the terms and subject to applicable premiums of the new plan; or

(3) The date on which the divorced or surviving spouse becomes eligible for coverage under any other group health plan; or

(4) The divorced or surviving spouse remarries; or

(5) The date on which the divorced or surviving spouse becomes eligible for federal Medicare coverage.

(h) This coverage shall apply to any group contract or group plan that covers twenty-five (25) persons and that is entered into or renewed in this state on or after October 1, 2005.

(i)

(1) For the purposes of this section only, unless otherwise authorized by law, an employer may not be required to make any contribution for the premium for coverage of the former spouse.

(2) Premiums shall be paid by the surviving spouse or in the event of divorce by one or both divorcing parties as provided by court order.

(j) A former spouse and any dependent children may elect to proceed with continuing insurance coverage as otherwise authorized by law, instead of under the provisions of this section. In the event a former spouse and any dependent children elects continuation coverage as otherwise provided by law, at the end of such coverage period, such spouse and children may elect coverage under subsection (a).

SECTION 2. Tennessee Code Annotated, Section 36-5-101, is amended by adding the following as a new, appropriately designated subsection:

(u) Pursuant to section 56-7-2365, no group policy of accident and sickness insurance offered for sale in this state, which provides coverage for hospital or medical expenses which, in addition to covering the insured, also provides coverage to the spouse of the insured may contain a provision for termination of coverage for a spouse or dependent children covered under the policy solely as a result of the death or divorce of the parties.

SECTION 3. Tennessee Code Annotated, Title 56, Chapter 7, Part 10, is amended by adding the following as a new section:

56-7-1014.

Before an insured may remove a spouse or dependent children from coverage under any health insurance coverage, as defined in section 56-7-2802, regulated pursuant to this title, the insured shall provide ninety (90) days notice in writing to the spouse or the spouse shall sign a form promulgated by the department for use by insurers doing business in this state. The form shall

indicate that the spouse acknowledges being informed by the insured of the removal of coverage.

SECTION 4. This act shall take effect October 1, 2005, the public welfare requiring it.